

FILED

NOV 25 2014

Clerk, U.S. District Court
District Of Montana
Helena

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

ZURICH AMERICAN INSURANCE
COMPANY,

Plaintiff,

vs.

KEVIN BANKS, et al.,

Defendants.

No. CV-12-70-BLG-SEH

ORDER

On January 10, 2014, this Court entered an Order for the appointment of a Special Master under Fed R. Civ. P. 53 to advise and assist in the resolution of claims and allocation of interpleader funds.¹ On February 5, 2014, Gary M. Zadick, Esq. was appointed by this Court as Special Master to take such actions and measures, to make such findings and recommendations, and issue such orders

¹ (Doc. 208 at 2.)

as may be necessary and appropriate to assist in consideration and resolution of each individual Defendant's claim in this case.² On March 5, 2014, Special Master Zadick filed Special Master's Request and Order for Submission of Claims setting forth the claim submission process, including a Claim Form, to provide all Defendants the opportunity to submit their individual claims.³ Special Master Zadick allowed Defendants sixty days from the date of the Order to submit their claims.⁴ For good cause shown, Special Master Zadick stated he would allow for an extension of time, but that it was his desire to not unnecessarily delay the resolution of the claims presented against the interpled fund.⁵

Special Master Zadick filed his Findings and Recommendations re: Evaluation of Claims and Awards to Claimants on July 1, 2014, setting forth his recommended awards.⁶ Special Master Zadick did not recommend awards to Defendants DeWayne Ahrendt, Tate Kapple, Brenden King, Damon Leeds, Mohamad Mohamad, and Bryant Payne as the Court had previously entered their

² (Doc. 217 at 2.)

³ (See Doc. 234.)

⁴ (Doc. 234 at 2.)

⁵ (Doc. 234 at 2.)

⁶ (Doc. 242.)

defaults.⁷ He did not recommend awards to Defendants Michael Estep, Fabian Garza, Wendy Garza, Francis Habadah, and Nathaniel Pratt as they did not provide a response to the Special Master's Request and Order for Submission of Claims.

Following the Special Master's Findings and Recommendations, it was brought to the Court's attention in Defendant Michael Estep's Objection to Special Master's Findings and Recommendations,⁸ and Wendy Garza and Fabian Garza's Motion and Brief to Recognize Claims,⁹ that they asserted that they did not receive notification through CM/ECF, standard mailing or otherwise of the Special Master's March 5, 2014, Request and Order for Submission of Claims due to claimed service issues involving proper addresses or other reasons. Similar claims of service errors and omissions occurring with regard to Defendants Francis Habadah and Nathaniel Pratt were presented to the Court.

Following hearing, the Court exercised its discretion to allow the claims of Defendants Michael Estep, Fabian Garza, Wendy Garza, Francis Habadah and Nathaniel Pratt to be submitted to the Special Master for consideration. The

⁷ (See Docs. 223; 224; 225; 226; 232; 233.)

⁸ (See Doc. 250.)

⁹ (See Docs. 248; 249.)

Special Master's Findings and Recommendations Re: Evaluation of Claims and Awards to Claimants¹⁰ were referred back to the Special Master for further reconsideration.

On October 30, 2014, the Special Master's Amended Findings and Recommendations Re: Evaluation of Claims and Awards to Claimants¹¹ ("Report and Recommendations") were filed and served upon each party. No objections to the Report and Recommendations have been filed. More than 21 days have expired since the Report and Recommendations were filed.

ORDERED:

1. Upon full review of the Report and Recommendations in accordance with Fed. R. Civ. P. 53(f), the Court accepts the Report and Recommendations in their entirety. The Estate of Robert Lange's Motion to Adopt Special Master's Amended Findings and Recommendations (Doc. 281) is GRANTED.

2. Zurich American Insurance Company is directed to make disbursements to the persons named and in the amounts stated in the Report and Recommendations.

¹⁰ (See Doc. 242.)


¹¹ (Doc. 281.)

3. Each person to receive a disbursement as provided in paragraph 2 shall forthwith file with the clerk the name and complete mailing address of the payee to whom the disbursement is to be made.

4. Upon completion of the disbursements, Zurich American Insurance Company shall file a statement of accounting of the disbursements setting forth for each disbursement the amount paid and the name and address of the payee to whom the disbursement was directed.

5. Upon completion of the disbursement, Plaintiff Zurich American Insurance Company shall also file with the Court a report outlining and defining any issues remaining for resolution. Any other party shall have 14 days following the date of Plaintiff Zurich American Insurance Company's remaining issues' report to respond.

DATED this 25th day of November, 2014.



SAM E. HADDON
United States District Judge